

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 165 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

ALAMBHAI JAMALBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 165 of 2003
MR MA BUKHARI for Petitioner No. 1
MS PB SHETH APP for Respondent No. 1
..... for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE D.P.BUCH

Date of decision: 27/08/2003

ORAL JUDGEMENT

The present revision application has been filed
by the petitioner - original accused in Criminal Case

No.1201/2001, before the learned Metropolitan Magistrate, Court No.5, Ahmedabad City, challenging the judgment and conviction order recorded by the said Court in the said case on 24/10/02 convicting the present petitioner for offences punishable u/s.419, 199 and 200 of IPC and sentencing him to suffer S.I. for 3 years. The said judgment and conviction order was confirmed in Criminal Appeal No.59/2002 by order dated 17/02/03 recorded by the learned Addl. Sessions Judge, City Sessions Court, Ahmedabad.

2. It appears from the record that one accused person was being tried in Sessions Case No.69/1999. The said accused person was required to furnish surety. The present petitioner stood as surety saying that he was one Jamalmiya and produced relevant documents to show that he was Jamalmiya. The said accused did not return to the custody and therefore, arrest warrant was issued which was not served for a long time. Ultimately, the said Court issued warrant against Jamalmiya who stood as surety for the said accused. Thereafter, it was realized that Jamalmiya never stood as surety for the said accused, but, it was the present petitioner who stood as surety for the said accused, stating that he was Jamalmiya. The petitioner is shown to have produced documents to show that he was Jamalmiya and was holding some movable property. Therefore, it was found that the petitioner impersonated himself as Jamalmiya and stood as surety for the said accused in the said matter.

3. Therefore, the petitioner was tried before the learned Metropolitan Magistrate, Court No.5 for committing offences punishable u/s.419, 199 and 200 of IPC. After completion of trial, the learned Magistrate convicted the petitioner for the aforesaid offences and sentenced him to suffer S.I. for 3 years, by judgment and order dated 24/10/02. The present petitioner preferred Criminal Appeal No.59/2002 before the City Sessions Court unsuccessfully. Hence, this revision.

4. On receiving the revision application, Rule was issued and in response to the service of notice of Rule, Mr.M A Bukhari learned advocate appeared on behalf of the petitioner and Ms.P B Sheth learned APP appeared on behalf of the State.

5. The learned advocate for the petitioner has contended that the petitioner cannot be said to have committed any offence punishable u/s.419 of IPC. In support of the said contention, he has relied upon a decision of the hon'ble the Supreme Court in Ram Jas V/s.

State of U.P. reported in 1974 CLJ 1261. It is the argument of the learned advocate for the petitioner that no damage has been caused to anybody and therefore, no offence is made out u/s.419 of IPC.

6. Now, it is an admitted fact that because of impersonation by the petitioner, the accused in the aforesaid case was enlarged on bail and he remained on bail for quite a long time. The case against him could not proceed ahead and ultimately, the Court had to undertake process of issuing warrant even against the surety. In above view of the matter, it cannot be said that nobody has suffered, on account of impersonation by the present petitioner.

7. Moreover, here the impersonation was an act in respect of the court proceeding and therefore, the matter was of a serious nature and therefore, the trial court as well as the Sessions Court both were justified in inflicting the above punishment. The learned advocate for the petitioner has contended that the petitioner is aged about 60 years and therefore, the Court should extend some leniency to the petitioner. Now, looking to the fact that the trial court has imposed simple imprisonment, it would show that the trial court has considered the age of the petitioner. The same fact has again been considered by the Sessions Court also.

8. It is required to be considered that false cases are being filed in Courts and persons have been standing as surety under wrong names and ultimately, on the one hand, the accused persons are not traceable and on the other hand, even the sureties are not traceable, with the result that those criminal cases are not being disposed of in absence of the accused persons. In view of the above tendency, it would not be just and proper to show any leniency to the present petitioner. In that view of the matter, there is no merit in the present revision application and it deserves to be dismissed.

9. For the foregoing reasons, this revision application is ordered to be dismissed. Rule discharged.

(D. P. Buch, J.)

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